IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

OP.No. 13645 of 2002(Y)

PETITIONER:

M/S.RATAN PLANTATIONS LIMITED,G.113, PANAMPILLY NAGAR, KOCHI 36, REPRESENTED BY ITS ACCOUNTS MANAGER, MR.PREETH ANAND.

BY ADV. .
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
SRI.ANIL D. NAIR
SMT.PRIYA MAHESH
SMT.PRIYA MANJOORAN

RESPONDENTS:

1. INSPECTING ASSISTANT COMMISSIONER (SPL) COMMERCIAL TAXES,ERNAKULAM.

2. DEPUTY COMMISSIONER OF COMMERCIAL TAXES, (APPEALS), ERNAKULAM.

3. SALES TAX APPELLATE TRIBUNAL,ERNAKULAM.

4. DEPUTY TAHSILDAR (RR)KANAYANUR TALUK, ERNAKULAM.

BY GOVERNMENT PLEADER SRI GOVINDAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 25/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP.NO.22945/2002 & I.A.NO.1602/2006 IN
O.P.NO.13645/2002

Dismissed

25/5/2007 Sd/- P.R.RAMAN, JUDGE.

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF THE LETTER SENT BY THE PETITIONER TO THE IST RESPONDENT DATED 27/11/2001.

EXT.P2 TRUE COPY OF THE ASSESSMENT ORDER FOR 1999-2000 ISSUED BY THE IST RESPONDENT TO THE PETITIONER DTD.28/11/2001.

EXT.P3 TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE IST RESPONDENT TO THE PETITIONER DTD. 28/11/2001.

EXT.P4 TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 9/5/2002.

EXT.P5 TRUE COPY OF THE STAY PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DTD. 9/5/2002.

EXT.P6 TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 27/11/2001.

EXT.P7 TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT FOR 1997-98 DATED 15/2/2002.

EXT.P8 TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR 1998-99 DATED 15/2/2002.

EXT.P9 TRUE COPY OF THE APPEAL FILED FOR PENALTY BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR 98-99 DATED 15/2/2002.

EXT.P10 TRUE COPY OF THE APPEAL FILED FOR INTEREST BY THE PETITIONER BEFORE THE 2ND RESPONDENT FOR 98-99 DATED 15/2/2002.

EXT.P11 TRUE COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER FOR 99-2000.

EXT.P12 TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DATED 9/5/2002.

EXT.P13 TRUE COPY OF THE LETTER SENT BY THE PETITIONER TO THE IST RESPONDENT DATED 11TH MAY, 2002.

P.R. RAMAN, J.

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O.P. NO. 13645 OF 2002

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DATED THIS, THE 25TH DAY OF MAY, 2007.

J U D G M E N T

Petitioner is an assessee under the Agricultural Income Tax Act. For the assessment year 1999-2000 he was assessed to tax as per Ext.P2 order against which he preferred an appeal Ext.P4 along with Ext.P5 - an application for stay of recovery of tax due as per Ext.P2. By Ext.P6 order, the Additional Deputy Commissioner (Appeals), the second respondent herein granted an interim stay on condition that petitioner shall pay 50% of the tax assessed as per Ext.P2. In the meantime, revenue recovery proceedings were initiated as per Ext.P11. The challenge is against the said interim order passed by the second respondent and consequently, the Revenue Recovery proceedings.

2. It is the contention of the petitioner that for the years 1996-97 to 1998-99 appeals filed by the petitioner were disposed of by the first appellate authority as per Ext.P6 order. The appeal relating to the assessment year 1996-97 was allowed and for the year 1997-98 the

assessment was modified. The appeal relating to the assessment year 1998-99 was dismissed. As against the order declining relief, petitioner preferred second appeals before the Tribunal which were pending when this original petition was filed. Though the learned counsel would submit that those appeals have been disposed of by the Appellate Tribunal, he was not in a position to place on record the order passed by the Tribunal and as such no reliance can be placed on the said order, if any passed. However, it is the contention of the petitioner that if the relief granted by Ext.P6 order was given effect to by the assessing officer, there would not have been any further amount due and payable by the petitioner towards tax due and payable for the assessment year 1999-2000. It is on that ground he submits that the interim order passed by the Deputy Commissioner (Appeals) be suitably modified and relief granted.

3. This Court, by order dated 8.2.2006 on I.A. No. 1602/2006 has already granted a stay of further proceedings pursuant to Ext.P11 for a period of two weeks which is stated to have been extended from time to time.

4. This writ petition pertains only for the assessment year 1999-2000 in respect of which an interim order was passed as evidenced by Ext.P6. Since this Court has already directed to give effect to Ext.P6 order passed

in respect of the assessment years in favour of the assessee, the same shall be carried out by the assessing officer. If the appeals pending before the Tribunal are also disposed of, it will be open to the assessing officer to give effect to such appellate order in respect of the earlier assessment orders also provided there is no further appeal or revision before this Court. Since the assessment orders pertains to 1999-2000 and this original petition was pending all these years, recovery of the amount due and payable for the assessment year 1999-2000 pursuant to Ext.P2 will stand stayed for two months. There will be a further direction that the second respondent shall dispose of Ext.P4 expeditiously, at any rate, within a period of the said four months.

The original petition is disposed of as above.

P.R. RAMAN,
(JUDGE)

knc/-

P.R. RAMAN, J.
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O.P. NO. 13645 OF 2002
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J U D G M E NT
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25TH MAY, 2007.